

1-1 By: Zaffirini S.B. No. 1560  
 1-2 (In the Senate - Filed March 12, 2015; March 23, 2015, read  
 1-3 first time and referred to Committee on Health and Human Services;  
 1-4 April 20, 2015, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 20, 2015,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1560 By: Rodríguez

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the regulation of chemical dependency treatment  
 1-22 facilities and certain other facilities.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 164.003(6), Health and Safety Code, is  
 1-25 amended to read as follows:

1-26 (6) "Mental health professional" means a:

1-27 (A) "physician" as defined by Section 571.003;

1-28 (B) "licensed professional counselor" as defined  
 1-29 by Section 503.002, Occupations Code;

1-30 (C) "chemical dependency counselor" as defined  
 1-31 by Section 504.001, Occupations Code;

1-32 (D) "psychologist" offering "psychological  
 1-33 services" as defined by Section 501.003, Occupations Code;

1-34 (E) "registered nurse" licensed under Chapter  
 1-35 301, Occupations Code;

1-36 (F) "advanced practice registered nurse" as  
 1-37 defined by Section 301.152 ["vocational nurse" licensed under  
 1-38 Chapter 301], Occupations Code;

1-39 (G) "licensed marriage and family therapist" as  
 1-40 defined by Section 502.002, Occupations Code; ~~and~~

1-41 (H) "social worker" as defined by Section  
 1-42 505.002, Occupations Code; and

1-43 (I) "physician assistant" licensed under Chapter  
 1-44 204, Occupations Code.

1-45 SECTION 2. Section 164.009(e), Health and Safety Code, is  
 1-46 amended to read as follows:

1-47 (e) A chemical dependency facility may not represent or  
 1-48 recommend that a prospective patient should be admitted to a  
 1-49 facility for treatment unless and until:

1-50 (1) the prospective patient has been evaluated, in  
 1-51 person, by a mental health professional; and

1-52 (2) a [the] mental health professional determines that  
 1-53 the patient meets the facility's admission standards.

1-54 SECTION 3. Sections 462.009(a) and (b), Health and Safety  
 1-55 Code, are amended to read as follows:

1-56 (a) A treatment facility licensed by the department under  
 1-57 Chapter 464 may not provide treatment to a patient without the  
 1-58 patient's legally adequate consent. [A patient receiving treatment  
 1-59 in a treatment facility is entitled to refuse a medication,  
 1-60 therapy, or treatment unless:

2-1 ~~[(1) the patient is younger than 18 years of age, the~~  
2-2 ~~patient is admitted under Section 462.022(a)(3)(A), and the~~  
2-3 ~~patient's parent, managing conservator, or guardian consents to the~~  
2-4 ~~medication, therapy, or treatment on behalf of the patient;~~

2-5 ~~[(2) the patient has been adjudicated to be~~  
2-6 ~~incompetent to manage the patient's personal affairs or to make a~~  
2-7 ~~decision to refuse the medication, therapy, or treatment and the~~  
2-8 ~~patient's guardian of the person or another person legally~~  
2-9 ~~authorized to consent to medical treatment consents to the~~  
2-10 ~~medication, therapy, or treatment on behalf of the patient; or~~

2-11 ~~[(3) a physician treating the patient determines that~~  
2-12 ~~the medication is necessary to prevent imminent serious physical~~  
2-13 ~~harm to the patient or to another individual and the physician~~  
2-14 ~~issues a written order, or a verbal order if authenticated in~~  
2-15 ~~writing by the physician within 24 hours, to administer the~~  
2-16 ~~medication to the patient.]~~

2-17 (b) The executive commissioner by rule shall prescribe  
2-18 standards for obtaining a patient's legally adequate consent under  
2-19 this section, including rules prescribing reasonable efforts to  
2-20 obtain a patient's consent and requiring documentation for those  
2-21 efforts. ~~[The decision of a guardian or of a person legally~~  
2-22 ~~authorized to consent to medical treatment on the patient's behalf~~  
2-23 ~~under Subsection (a)(2) must be based on knowledge of what the~~  
2-24 ~~patient would desire, if known.]~~

2-25 SECTION 4. Subchapter A, Chapter 462, Health and Safety  
2-26 Code, is amended by adding Sections 462.010, 462.011, 462.012, and  
2-27 462.013 to read as follows:

2-28 Sec. 462.010. CONSENT TO MEDICATION. Consent to the  
2-29 administration of prescription medication given by a patient  
2-30 receiving treatment in a treatment facility licensed by the  
2-31 department under Chapter 464 or by a person authorized by law to  
2-32 consent on behalf of the patient is valid only if:

2-33 (1) the consent is given voluntarily and without  
2-34 coercive or undue influence;

2-35 (2) the patient and, if appropriate, the patient's  
2-36 representative authorized by law to consent on behalf of the  
2-37 patient are informed in writing that consent may be revoked; and

2-38 (3) the consent is evidenced in the patient's clinical  
2-39 record by a signed form prescribed by the treatment facility or by a  
2-40 statement of the treating physician or a person designated by the  
2-41 physician that documents that consent was given by the appropriate  
2-42 person and the circumstances under which the consent was obtained.

2-43 Sec. 462.011. RIGHT TO REFUSE MEDICATION. (a) Each  
2-44 patient receiving treatment in a treatment facility licensed by the  
2-45 department under Chapter 464 has the right to refuse unnecessary or  
2-46 excessive medication.

2-47 (b) Medication may not be used by the treatment facility:

2-48 (1) as punishment; or

2-49 (2) for the convenience of the staff.

2-50 Sec. 462.012. MEDICATION INFORMATION. (a) The executive  
2-51 commissioner by rule shall require the treating physician of a  
2-52 patient admitted to a treatment facility licensed by the department  
2-53 under Chapter 464 or a person designated by the physician to provide  
2-54 to the patient in the patient's primary language, if possible,  
2-55 information relating to prescription medications ordered by the  
2-56 physician.

2-57 (b) At a minimum, the required information must:

2-58 (1) identify the major types of prescription  
2-59 medications; and

2-60 (2) specify for each major type:

2-61 (A) the conditions the medications are commonly  
2-62 used to treat;

2-63 (B) the beneficial effects on those conditions  
2-64 generally expected from the medications;

2-65 (C) side effects and risks associated with the  
2-66 medications;

2-67 (D) commonly used examples of medications of the  
2-68 major type; and

2-69 (E) sources of detailed information concerning a

3-1 particular medication.  
3-2 (c) If the treating physician designates another person to  
3-3 provide the information under Subsection (a), then, not later than  
3-4 two working days after that person provides the information,  
3-5 excluding weekends and legal holidays, the physician shall meet  
3-6 with the patient and, if appropriate, the patient's representative  
3-7 who provided consent for the administration of the medications  
3-8 under Section 462.010, to review the information and answer any  
3-9 questions.

3-10 (d) The treating physician or the person designated by the  
3-11 physician shall also provide the information to the patient's  
3-12 family on request, but only to the extent not otherwise prohibited  
3-13 by state or federal confidentiality laws.

3-14 Sec. 462.013. LIST OF MEDICATIONS. (a) On the request of a  
3-15 patient, a person designated by the patient, or the patient's legal  
3-16 guardian or managing conservator, if any, the facility  
3-17 administrator of a treatment facility licensed by the department  
3-18 under Chapter 464 shall provide to the patient, the person  
3-19 designated by the patient, and the patient's legal guardian or  
3-20 managing conservator, a list of the medications prescribed for  
3-21 administration to the patient while the patient is in the treatment  
3-22 facility. The list must include for each medication:

- 3-23 (1) the name of the medication;
- 3-24 (2) the dosage and schedule prescribed for the  
3-25 administration of the medication; and
- 3-26 (3) the name of the physician who prescribed the  
3-27 medication.

3-28 (b) The list must be provided before the expiration of four  
3-29 hours after the facility administrator receives a written request  
3-30 for the list from the patient, a person designated by the patient,  
3-31 or the patient's legal guardian or managing conservator, if any. If  
3-32 sufficient time to prepare the list before discharge is not  
3-33 available, the list may be mailed before the expiration of 24 hours  
3-34 after discharge to the patient, the person designated by the  
3-35 patient, and the patient's legal guardian or managing conservator.

3-36 (c) A patient or the patient's legal guardian or managing  
3-37 conservator, if any, may waive the right of any person to receive  
3-38 the list of medications while the patient is participating in a  
3-39 research project if release of the list would jeopardize the  
3-40 results of the project.

3-41 SECTION 5. Section 462.025(h)(4), Health and Safety Code,  
3-42 is amended to read as follows:

3-43 (4) "Screening" means the process a treatment facility  
3-44 uses to determine whether a prospective patient presents sufficient  
3-45 signs, symptoms, or behaviors to warrant a more in-depth assessment  
3-46 by a qualified professional after the patient is admitted.

3-47 SECTION 6. The following provisions of the Health and  
3-48 Safety Code, including provisions amended by S.B. No. 219, Acts of  
3-49 the 84th Legislature, Regular Session, 2015, are repealed:

- 3-50 (1) Sections 462.009(c), (d), (e), (f), and (g); and
- 3-51 (2) Section 462.025(h)(2).

3-52 SECTION 7. This Act takes effect immediately if it receives  
3-53 a vote of two-thirds of all the members elected to each house, as  
3-54 provided by Section 39, Article III, Texas Constitution. If this  
3-55 Act does not receive the vote necessary for immediate effect, this  
3-56 Act takes effect September 1, 2015.

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